

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 AT TACOMA

11 GARY OSTER,

12 Plaintiff,

13 v.

14 HAROLD CLARKE, *et al*,

15 Defendants.

Case No. C07-5508RJB-KLS

REPORT AND  
RECOMMENDATION

Noted for November 28, 2008

16 This matter is before the Court on plaintiff's failure to respond to the undersigned's order to  
17 submit two completed service forms for defendants Bill Franks and Victoria Roberts. (Dkt. #43). After a  
18 review of the record, the undersigned submits the following report and recommendation, recommending  
19 the Court dismiss defendants Franks and Roberts for plaintiff's failure to respond to the undersigned's  
20 order.

21 DISCUSSION

22 On July 8, 2008, the undersigned ordered plaintiff to complete two service forms containing the  
23 proper addresses for service on defendants Franks and Roberts – and not in the care of the Attorney  
24 General – and to return them to the Court by no later than August 7, 2008, so that proper service by mail  
25 could be attempted. (Dkt. #35). Because plaintiff failed to comply with that order, on September 9, 2008,  
26 the undersigned once more ordered him to submit two completed service forms for defendants Franks and  
27 Roberts by no later than October 9, 2008, so that proper service by mail again could be attempted. (Dkt.  
28 #43). Plaintiff was warned that failure to so respond by this date would result in a recommendation that


1 defendants Franks and Roberts be dismissed from this action. To date, however, plaintiff still has failed  
2 to respond as ordered.

3 CONCLUSION

4 Because plaintiff has failed to respond to the undersigned's two orders directing him to submit  
5 completed service forms for defendants Franks and Roberts so that service by mail may be attempted on  
6 them, the Court should dismiss those two defendants from this case and any and all claims plaintiff has  
7 against them in this matter.

8 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure ("Fed. R. Civ. P.") 72(b),  
9 the parties shall have ten (10) days from service of this Report and Recommendation to file written  
10 objections thereto. See also Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those  
11 objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit  
12 imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set this matter for consideration on **November**  
13 **28, 2008**, as noted in the caption.

14 DATED this 3rd day of November, 2008.

15  
16  
17 

18 Karen L. Strombom  
19 United States Magistrate Judge  
20  
21  
22  
23  
24  
25  
26  
27  
28